

REMARKS

In an Office Action mailed July 26, 2007, claims 1-8, 10-20, 23-25, 27, 29, and 32 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,818,510 (“Cobbley”). Additionally, claims 21-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cobbley in view of Katseff. Applicant respectfully traverses and requests reconsideration.

As an initial matter, Applicant notes that claims 1, 8, 13, 19, 25, 27 and 29 have been amended above to more accurately state that which Applicant regards as his invention. In particular, claims 1, 8, 13, 19, 25, 27 and 29 have been amended to more clearly recite that the index information is related to the subject and comprises an event indicator that a specific event is occurring. Support for this amendment may be found, for example, in paragraphs 0011, 0012 and 0025 of the instant specification. Additionally, amendments have been made to claims 7, 12 and 17 to conform these claims to the amendments to the independent claims (claims 1, 8 and 13, respectively) from which they depend. For the reasons noted below, Applicant respectfully submits that the instant claims, as amended, embrace patentable subject matter and may be passed to allowance.

Concurrent herewith, Applicant is filing an Information Disclosure Statement setting forth various references recently cited, as well as the Official Letter in which they were cited, in a corresponding European patent application. In light of the amendments to claims herein, Applicant respectfully submits that the instant claims are allowable over this newly-cited art.

Referring now to the instant rejections, claims 1-8, 10-20, 23-25, 27, 29, and 32 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cobbley. As understood by Applicant, Cobbley teaches a system whereby a receiving device (such as a VCR, television set, computer, etc.; col. 3, lines 58-61) receives a transmission from a broadcast source (105, FIG. 1; col. 3, lines 55-58) comprising video and/or audio information (col. 3, lines 49-54). The transmission

(or broadcast stream; col. 4, line 26) also includes “indexing information” either explicitly (e.g., col. 4, lines 13-41: indexing information inserted by the broadcast source) or implicitly (e.g., col. 4, lines 42-50: indexing extracted from concurrently transmitted closed caption information or from the audio/video information itself through use of audio/video recognition techniques). An “index data capture device 112” is provided that “receives the broadcast information . . . and obtains the indexing information from the broadcast information.” (col. 6, lines 12-14) A “capture device 115” is also provided to convert analog video/audio data into a digital form suitable for presentation via a computer system, and to optionally compress the digital form of the video/audio data (col. 6, lines 41-53). A “cache manager 125” receives both the digital (and sometimes compressed) audio/video information, as well as the extracted indexing information (col. 6, line 60 – col. 7, line 52) and operates to associate the audio/video information and the indexing information together (col. 7, line 58 – col. 8, line 3). The cache manager 125 may subsequently inform a user about the audio/video information and associated indexing information thus stored and, in response to a user request for one or more specific “segments”, provide the selected segments to a “client system 140” for subsequent presentation to the user (col. 9, lines 53-67).

Applicant respectfully submits that, contrary to the assertions otherwise in the instant Office Action, Cobbley fails to teach a number of limitations recited in the instant claims. For example, with respect to independent claims 1, 8, 13, 19, 25, 27 and 29, it is asserted that Cobbley’s index data capture device 112 reads on the claimed “media capture device.” As noted above, Cobbley’s index data capture device 112 extracts indexing information from the broadcast transmission. In contrast, the presently-claimed media capture device captures a subject in a media file. That is, as noted in paragraph 0008 of the instant specification, a media

capture device as presently claimed (such as camera, camcorder, audio recorder, etc.) *creates* the media file encompassing a representation of a subject, e.g., a photographic image or sound recording. This is clearly different from a device that merely extracts indexing information from a received broadcast transmission. For sake of completeness, Applicant also notes that Cobbley's similarly-named capture device 115 likewise does not read on the claimed media capture device to the extent that Cobbley's capture device 115, as noted above, serves merely to perform analog to digital conversions or digital compression. In sum, Cobbley fails to teach any device that *creates* media files (as opposed to merely receiving broadcast media files), nor would any person of ordinary skill in the art reasonably interpret the teachings of Cobbley in this manner.

Furthermore, the instant claims (e.g., independent claims 1, 13, 19, 27 and 29) recite index information being received by (or sent to) the media capture device *separate from the media file*. Applicant respectfully submits that Cobbley fails to teach the index information being provided to anything (much less a media capture device) separate from the media file (Cobbley's video/audio information included in the broadcast information). Indeed the very portion of Cobbley cited in the Office Action refutes that assertion that Cobbley's index information is provided separate from the video/audio information (col. 6, lines 12-21; emphasis added):

Index data capture device 112 receives the broadcast information from broadcast receiver 110 and *obtains the indexing information from the broadcast information*. . . The method utilized by index data capture device 112 to obtain the indexing information is dependent on the method utilized by broadcast source 105 to transmit the indexing information.

Thus, to the extent that all embodiments taught by Cobbley teach the indexing information being transmitted by the broadcast source 105 as part of (either explicitly or

implicitly) the broadcast information, Applicant respectfully submits that Cobbley fails to teach the provision of indexing information separate from the captured media file.

Further still, as noted above, all of the instant independent claims have been amended to recite the indexing information comprising an event indicator that a specific event is occurring. Applicant is simply unable to find any such teaching in Cobbley. This is not surprising because Cobbley is unrelated to the capture of subjects in media files and their subsequent indexing based on separately received indexing information. Thus, for the reasons stated above, Applicant respectfully submits that claims 1, 8, 13, 19, 25, 27 and 29 are not anticipated by Cobbley and are therefore in suitable condition for allowance.

With regard to claims 2-7, 10-12, 14-18, 20-24 and 32, Applicant notes that these claims are dependent upon independent claims 1, 8, 13, 19, 25, 27 and 29. Because claims 2-7, 10-12, 14-18, 20-24 and 32 incorporate the limitations of claims 1, 8, 13, 19, 25, 27 and 29, Applicant respectfully submits that Cobbley does not anticipate claims 2-7, 10-12, 14-18, 20-24 and 32 for at least the reasons presented above with regard to the independent claims. Therefore, Applicant respectfully submits that claims 2-7, 10-12, 14-18, 20-24 and 32 are in suitable condition for allowance.

Claims 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cobbley in view of Katseff. Applicant notes that claims 21 and 22 are dependent upon independent claim 19. Cobbley fails to teach each and every limitation of independent claim 19, as discussed above, and this failure is not remedied by the additional teachings of Katseff. As further explained in the Response to the Office Action mailed September 21, 2006, to the extent that Katseff teaches anything about “index information,” the index information is not received by a media capture device, as presently claimed, but is instead provided to downstream to server 40.

In short, Katseff, does not teach what is alleged. Applicant therefore respectfully submits that the combination of Cobbley in view of Katseff fails to establish prima facie obviousness of claims 21 and 22, which claims are therefore in condition for allowance.

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully requests reconsideration and withdrawal all presently outstanding rejections. Thus, prompt and favorable consideration of this response is respectfully requested. If it is believed that personal communication will expedite prosecution of this application, Applicant's undersigned representative may be contacted at the number below.

Respectfully submitted,

Vedder, Price, Kaufman &
Kammholz, P.C.

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By: 
Christopher P. Moreno
Reg. No. 38,566

222 North LaSalle Street, Suite 2600
Chicago, Illinois 60601
(312) 609-7842 (Direct)
(312) 609-5005 (Facsimile)